

## REMARKS

This paper is being filed in response to the Office Action mailed on May 6, 2002. Claims 57-96 are pending in the application. Of the pending claims, Claims 62-64, 66, 67, 70, 71, 73-83, 91, and 92, are withdrawn from consideration as being drawn to a non-elected species.

Claims 57-61, 65, 68, 69, 72, 84-90, and 93-96, have been examined and are rejected. Claims 84-96 have been cancelled without acquiescing in the Examiner's Action, without intending to surrender the subject matter of the cancelled claims, and without prejudice to filing continuing applications in the future directed to the subject matter of the cancelled claims.

Claims 57, 58, 65, 68, and 69 have been amended. Claims 97 to 102 have been added. Reconsideration of Claims 57-61, 65, 68, 69, 72, and 97-102 is respectfully requested.

### The Objection to the Specification

The specification is objected to as failing to provide clear support for the claimed terminology. Specifically, it is applicants' understanding that "connection means for attaching" and "means for adjusting" of Claim 84, and "redirecting means for changing" and "means for adjusting" of Claim 85 does not appear in the specification. Applicants respectfully submit that Claims 84 and 85 find sufficient support in the description, which also includes the figures, such that the meaning of the terms in the claims are clearly ascertainable by persons of ordinary skill. One instance for support of Claims 84 and 85 is found on page 13, lines 12-33. In any event, Claims 84 and 85 have been cancelled without prejudice, thus making the objection moot.

### The Rejection of Claims 58, 68, 69, 84, and 85 Under 35 U.S.C. § 112

Claims 58, 68, 69, 84, and 85 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. Claims 84 and 85 have been cancelled. Applicants respectfully traverse the rejection of Claims 58, 68, and 69.

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Applicants submit Claims 58, 68, and 69 meet the requirements of Section 112, second paragraph. The Examiner is required to take into consideration the content of the application, the teaching of the prior art, and the interpretation given the claims by one of ordinary skill. Based on these criteria, applicants respectfully submit that the claims are clear to a reasonable degree. In any event, Claims 58, 68, and 69 have been amended, thus the rejection is moot. Such amendments should not be construed as acquiescence in the rejection, or the surrender of any subject matter, but are merely made to remove issues that hinder the early issuance of a patent, and are not made for any reason related to patentability. Accordingly, withdrawal of the rejection of Claims 58, 68, and 69 is respectfully requested.

#### The Anticipation Rejections

The claims have been amended to recite that the boot comprises a forward lean system. The forward lean system comprises several elements which are described, for example, in the specification beginning on page 13, line 12, and continuing through the end of the written description, and also including the figures. As an initial matter, applicants respectfully submit that none of the references relied upon teaches a forward lean system. While the claims must be given their broadest reasonable interpretation, the claims must also be interpreted consistently with what those who are skilled in the art would reach. MPEP 2111. Applicants submit that persons of ordinary skill would not consider the boots of the applied references to have forward lean systems. Accordingly, none of these references anticipates the claimed invention.

#### The Rejection of Claims 57-61, 65, 68, 69, 72, 84-90, and 93-96 Under 35 U.S.C. § 102(b)

Claims 57-61, 65, 68, 69, 72, 84-90, and 93-96 are rejected under 35 U.S.C. § 102(b) as being anticipated by Sartor (U.S. Patent No. 4,922,633). Claims 84-96 have been cancelled without acquiescence to the Examiner's Action, without the intent of surrendering any subject

matter, and without prejudice to filing any continuing application in the future directed at the subject matter of the cancelled claims.

Applicants respectfully traverse the rejection of Claims 57-61, 65, 68, 69 and 72. Claims 58-61 depend from Claim 57 or from a claim that depends from Claim 57. Claims 68, 69, and 72 depend from Claim 65.

As amended, Claim 57 recites "a forward lean system" having "medial and lateral side cable members on the boot, wherein the cable members are attached to the forward portion of the boot at only one general position thereon."

In direct contrast, Sartor does not have a forward lean system. Sartor is directed to a rear entry ski boot that has front and rear quarters. Sartor, at most, shows a cable member on one side of the boot attaching to the same side of the boot and a second cable portion on the opposite side attaching to the opposite side of the boot, thus the cable members of Sartor do not attach at only one general forward portion of the boot.

As amended, Claim 65 recites "medial and lateral side cable members on the boot, wherein said medial and lateral side cable members attach to a front portion of the boot at only one general position thereon." As explained above, Sartor does not have a forward lean system, Sartor, at most, has a cable member on one side of the boot attaching to that same side, and a second cable member on a side opposite of the first cable attaching to the opposite side of the first cable. Thus, the cable members of Sartor do not attach to a front portion of the boot at only one general position.

In order for a reference to be anticipatory, the reference must exactly describe all the recitations in the claims. Because Sartor does not describe all the recitations of any one of the rejected claims, the reference is not anticipatory. The claims are not obvious over Sartor, either.

Sartor does not suggest, teach, provide motivation to make, or otherwise render the claims obvious. Accordingly, withdrawal of the rejection is respectfully requested.

The Rejection of Claims 57-61, 65, 68, 69, 72, 84-90, and 93-96 Under 35 U.S.C. § 102(b)

Claims 57-61, 65, 68, 69, 72, 84-90, and 93-96 are rejected under 35 U.S.C. § 102(b) as being anticipated by Batistella et al. (U.S. Patent No. 5,060,403). Claims 84-96 have been canceled without acquiescence to the Examiner's Action, without the intent of surrendering any subject matter, and without prejudice to filing any continuing applications in the future directed at the subject matter of the canceled claims. Claims 57 and 65 have been amended. Claims 58-61 depend from Claim 57 or from a claim that depends from Claim 57. Claims 68, 69, and 72 depend from Claim 65. Applicants respectfully traverse the rejection of Claims 57-61, 65, 68, 69, and 72.

In direct contrast to the claimed invention, Batistella does not have a forward lean system. Batistella is directed to a rear entry ski boot having front and rear quarters which clamp about the lower leg of the user. The Examiner states Batistella's structure causes forward flexing. Applicants disagree. An important object of Batistella is to provide a device which achieves an automatic increase in the degree of tightening of the quarters, or of one or more pressers arranged inside the boot, *when the skier flexes the leg forward*. See column 2, lines 34-38.

In order for a reference to be anticipatory, the reference must exactly describe all the recitations in the claims. Because Batistella does not describe all the recitations in any one of the rejected claims, the reference is not anticipatory. The claimed invention is not obvious in view of Batistella, either. Batistella does not suggest, teach, provide motivation to make, or otherwise render the claims obvious. Accordingly, withdrawal of the rejection is respectfully requested.

The Rejection of Claims 57-61, 65, 68, 69, 72, 84-90, and 93-96 Under 35 U.S.C. § 102(b)

Claims 57-61, 65, 68, 69, 72, 84-90, and 93-96 are rejected under 35 U.S.C. § 102(b) as being anticipated by Spademan (U.S. Patent No. 4,360,979).

Claims 84-96 have been canceled without acquiescence to the Examiner's Action, without the intent of surrendering any subject matter, and without prejudice to filing any continuing applications in the future directed at the subject of the cancelled claims. Applicants respectfully traverse the rejection of Claims 57-61, 65, 68, 69, and 72. Claims 58-61 depend from Claim 57 or from a claim that depends from Claim 57. Claims 68, 69 and 72 depend from Claim 65.

In direct contrast to the claimed invention, Spademan does not have a forward lean system. Spademan is directed to a sport shoe with a dynamic adjustable cuff assembly. Spademan describes his invention as a sport shoe with an internal dynamic fitting system for changing the fit of the sport shoe to the lower part of a leg in response to movement of the leg relative to a foot attached thereto. Therefore, Spademan does not teach a forward lean system.

For a reference to be anticipatory, the reference must exactly describe all the recitations of the claims. Because Spademan does not describe every recitation in any one claim, the reference is not anticipatory. The claims are not obvious over Spademan, either. Spademan does not teach, suggest, provide motivation to make, or otherwise render the claims obvious. Accordingly, withdrawal of the rejection is respectfully requested.

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### CONCLUSION

In view of the foregoing amendments and remarks, applicants respectfully submit that all claims are allowable. Accordingly, passing this application to issue at an early date is solicited. If the Examiner has any further questions or comments that can be expeditiously addressed by telephone, the Examiner is encouraged to contact the undersigned attorney at 206.695.1725.

Respectfully submitted,

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### **EXPRESS MAIL CERTIFICATE**

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VERSION WITH MARKINGS TO SHOW CHANGES MADE SEPTEMBER 3, 2002

In the Claims:

Claims 57, 58, 65, 68, and 69, have been amended as follows:

57. (Three Times Amended) A boot, comprising:

a forward lean system, comprising:

medial and lateral side cable members on the boot, wherein the cable members are attached [at the same general] to the forward portion of the boot at only one general position thereon; and

a tension adjustment member connected to the cable members for altering the length of said cable members, to provide more or less forward lean of the boot relative to a vertical line.

58. (Twice Amended) A boot according to Claim 57, wherein forward [ends] portions of said medial and lateral side cables attach to a forward portion of the boot on a location at [one] a single side of the boot.

65. (Three Times Amended) A boot, comprising:

a forward lean system, comprising:

medial and lateral side cable members on the boot, wherein said medial and lateral side cable members attach to a front portion of the boot at only one general position thereon.

68. (Twice Amended) A boot according to Claim 65, wherein said [region] portion comprises first and second locations that are substantially adjacent each other.

69. (Twice Amended) A boot according to Claim 65, wherein said [region] portion comprises a substantially single position.

Claims 84-96 have been canceled.

Claims 97-102 have been added.